IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.06.2007

C O R A M :

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

WRIT PETITION NO.30265 of 2006

1.A.G. Narasimhan
2.N. Ganesan
3.V. Easwaran
4.Palani ... Petitioners

-vs-

1.The State Government
rep. by the Secretary to
Revenue Department
Fort St. George
Chennai 600 009.

2.The Collector
Namakkal District
Namakkal.

3.The Tahsildar
Rasipuram
Namakkal District.

4.The Assistant Director
Town Panchayat, Salem.

5.The Executive Officer
Town Panchayat
Vennadur
Rasipuram Taluk
Namakkal District.

6.The Trustee
Arulmighu Muthukumaraswami Temple
Deveasthanam, Venandur.
(R.6 impleaded as per order dt.27.11.2006
made in M.P.No.2 of 2006) .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus as stated therein.

For petitioners :: Mr. S. Pushpakaran
For respondents :: Mr. Raja Kalifulla
Government Pleader for R.1 to R.5

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Mr. AR.L. Sundaresan, Senior Counsel
for Mrs. A.L. Gandhimathi for R.6
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ORDER

(MADE BY P.JYOTHIMANI,J.)

This writ petition is filed for direction to the respondents to remove the unauthorised constructions put up on the encroached area comprised in S.No.89/9 natham poromboke, S.No.106/1 natham poromboke, S.No.229/36 parai poromboke, Venandnur Panchayat Lake bed comprised in S.Nos.10, 11 & 12 and land comprised in S.No.92/2 natham poromboke, coming under Vennandur Town Panchayat limit, Rasipuram Taluk, Namakkal District.

2. The second respondent, District Collector, Namakkal has filed a counter affidavit. In the counter affidavit, in respect of various survey numbers, the District Collector has given the particulars about the encroachments, which are in paragraphs 3 to 7, which run as follows:

> "3. With regard to para 5 of the affidavit, it is submitted that a Daily Market is functioning in s.F.No.89/9 of Vennandur Town Panchayat, which is Govt. poromboke land. For conducting the Daily Market an yearly auction is held and all through these years people belonging to Mudaliyar community have been successful bidders. In the said S.F.No. The successful bidders have put up construction of 22 shops and the said shops are situated very close to the primary school.
>
> 4. With regard to para 6 of the affidavit, it is submitted that the bus stand of Vennandur Town Panchayat is situated in S.No.106/1 and the same is close to Muthukumaraswamy Temple. In and around the temple, there is vacant space and the same has been encroached upon by way of construction of 12 shops. Further, the said shops are situated very near the highway.
>
> 5. With regard to para 7 of the affidavit, it is submitted that S.No.229/36 in Vennandur Town Panchayat is "Parai poromboke". The said poromboke land has been encroached by way of construction of Pillaiyar Temple which is adjacent to the Revenue Inspector's office and village Administrative Office. The details of the encroachments made in the above survey number are as follows:

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Sl.No.	Name of persons to occupied	Squares	Aspect of
1.	Alamelu W/o. Balakrishnan	0.00.5	Tiled Building
2.	Senthilkumar S/o. Veera Boyan	0.01.5	Tiled Building
3.	Kumar S/o. Saravanan	0.02.0	Tiled Building
4.	Masilamani S/o. Ponnusamy	0.01.0	Tiled Building
5.	Sudha W/o. Thangamani	0.00.5	Tiled Building
6.	Lakshmi W/o. Pachiyappan	0.01.0	Thatched Building

6. With regard to para 8 of the affidavit it is submitted that in Survey No.10 and 11 of the said Town Panchayat, the Highways Department have laid road. As regards the Survey No.12 which is lake, the following are the encroachments made therein.

S.No.	Name of persons to occupied	Particulars of occupied	Squares
1.	Dr. Shanmugam	Om Sudali Pathirakaliyamman Kovil	0.02.0
2.	D.r Shanmugam	Sithar Prayer Mandram	0.02.0
3.	S.A.M. Ganesan & Brothers	Building of Graveness	0.02.0
4.	Viswanathan S/o. Ponnusamy	Tiled Building	1600 sq.ft.
5.	Arunachalam S/o. Munusamy	Tiled Building	800 sq.ft.
6.	Arthanari S/o. Annamalai	Tiled Building	800 sq.ft.
7.	Athiyappan S/o. Athi Chetty	Tiled Building	700 sq.ft.
8.	Palanisamy S/o. Selvaraj	Tiled Building	200 sq.ft.
9.	Selvaraj s/o. Athi Chetty	Tiled Building	400 sq.ft.
10.	Boopathi S/o. Kandasamy	Tiled Building	700 sq.ft.
11.	Sengodan S/o. Annamalai	Tiled Building	700 sq.ft.
12.	Angamuthu S/o. Mariyappan	RCC Building	800 sq.ft.
13.	Varadharasan S/o. Komarasamy	Tiled Building	500 sq.ft.
14.	Arthanari S/o. Sitha Mudali	Tiled Building	500 sq.ft.
15.	Subramani S/o. Varutharaj	Tiled Building	0.00.5

Consequent to the encroachment made by the above said persons, the lake has shrunk apart from he Town panchayat could not construct the Godown and Burial Ground.

7. With regard to para 9 of the affidavit, it is submitted that the poromboke land in Survey No.92/2 of Vennandur Town panchayat has been encroached by Lions Club and have put up construction to suit their convenience."

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3. It is also specifically stated by the District Collector that the encroachers of the Government poromboke land in various survey numbers have been identified and necessary instructions have been issued to the concerned Department to evict the encroachers by following the due process of law, as per the Tamil Nadu Land Encroachment Act, 1905. The specific averment by the District Collector is,

> "8. It is submitted that the encroachers of the government poromboke land in various survey number have been identified. Further, suitable and necessary instructions have been issued to the concerned Department to evict the encroachers by following the due process of law as contemplated under the Tamil Nadu Land Encroachments Act, 1905, so as to restore the physical conditions to the land which were encroached upon. "

In view of the above said stand taken by the second respondent, District Collector in the counter affidavit, the writ petition is dismissed as nothing survives. No costs.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1. The Secretary to Government
   Revenue Department
   Fort St. George
   Chennai 600 009.
2. The Collector
   Namakkal District
   Namakkal.
3. The Tahsildar
   Rasipuram
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   Vennadur
   Rasipuram Taluk
   Namakkal District.

+ 1 cc to the Government Pleader, SR No.32192

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